

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii) CIVIL NO. CV03-00385 SOM LEK
citizen;)(Copyright)
)
Plaintiff,)
)
)
vs.)
) Volume 1
HAWAIIAN EXPRESS SERVICE,)
INC., a California)
corporation; et al.,)
)
Defendants.)
-----)

COPY

DEPOSITION OF WAYNE BERRY,
taken on behalf of the Defendant, Post-Confirmation
Trust, at the Law Offices of Kobayashi, Sugita & Goda,
999 Bishop Street, Suite 2600, Honolulu, Hawaii,
96813, commencing at 8:59 a.m., on Wednesday, May 18,
2005, pursuant to Notice.

BEFORE: Julie A. Peterson, CSR #361, CRR, RMR
Registered Professional Reporter
Notary Public, State of Hawaii

Ali'i Court Reporting
2355 Ala Wai Blvd., Suite 306
Honolulu, Hawaii 96815
(808) 926-1719

1 question before you ask to break. Will you do that?

2 A Yes.

3 Q Do you maintain a residence at 377 Keahole
4 Street, #10, in Honolulu?

5 A I'm not familiar with that address off the top
6 of my head.

7 Q That address is not affiliated with you, to the
8 best of your understanding, in any way whatsoever; is
9 that what you're saying?

10 A No, I'm not saying that. I'm just saying I
11 can't remember that address.

12 Q Is that address affiliated with you in any way,
13 sir?

14 A I don't know.

15 Q You don't know one way or the other whether or
16 not you have some affiliation with that address; is
17 that right?

18 A That's correct.

19 Q You indicated to me at the last deposition --
20 and I'm paraphrasing the testimony, so if I don't get
21 it exactly right, please correct me -- you're in the
22 business of programming. Is that still true?

23 A Yes.

24 Q Are you in any other business?

25 A Excuse me. I'm in the business of selling and

1 inappropriate pooh-poohing of your obligations under
2 the protective order. Notwithstanding, as long as the
3 parties will represent they are willing to sign
4 Exhibit A, we can proceed.

5 MR. LIEBELER: I'm not pooh-poohing it. I
6 haven't distributed it to them until they sign the
7 protective order, Mr. Hogan.

8 MR. HOGAN: I understand that, Mr. Liebeler.

9 MR. KOMEIJI: We'll sign the order.

10 MR. HOGAN: Fine.

11 Q (By Mr. Liebeler): Take a look at 45,
12 Mr. Berry, please.

13 A All right.

14 Q Is that a document you've ever seen before?

15 A Yes.

16 Q And the face of the document indicates that its
17 billed from Wayne Berry at 377 Keahole Street, Suite
18 D10, #110, Honolulu, Hawaii, 96825. Do you see that?

19 A Yes.

20 Q Is that your address, sir?

21 A Yes.

22 Q Do you maintain a residence at that address,
23 sir?

24 A No.

25 Q What is at that address, sir?

1 A What do you call it? Like a post office box.

2 Q Is your father named Paul Berry?

3 A Yes.

4 Q Did Paul Berry ever file a suit against you,
5 sir?

6 A I believe he did, yes.

7 Q Did you ever appear to defend yourself in that
8 action?

9 MR. HOGAN: Objection, calls for legal
10 conclusion. Also vague as to the term "appear,"
11 whether or not it means he physically appeared in the
12 courtroom or whether he filed an appearance.

13 A I'm not too sure how to answer that with the
14 legal -- I don't know what the legal -- I'm not trying
15 to evade your question, but the legal term "appear"
16 technically means.

17 Q (By Mr. Liebeler): Do you know where that
18 litigation was brought, sir, what state it was filed
19 in?

20 A California.

21 Q Did you ever physically travel to the
22 California courthouse and go to that courthouse for
23 purposes of that litigation?

24 A No.

25 Q Did you ever retain a lawyer to defend you in

1 (Whereupon, Berry Deposition Exhibit 47
2 marked for identification, 5-18-05.)

3 MR. HOGAN: I'll make an objection, foundation.
4 The document is not a certified document. The witness
5 can answer questions.

6 Q (By Mr. Liebeler): Have you ever seen a copy
7 of that document before, Mr. Berry?

8 A No, not that I can recall.

9 Q On the face of the document it indicates that
10 at one point you had an address at 59-379 Alapio Road
11 in Haleiwa. Was that at one point your address?

12 A Yes.

13 Q When, sir?

14 A I'm trying to place the year. It seems like
15 June 2001.

16 Q That was when it was last your address, sir?

17 A I think so.

18 MR. LIEBELER: Mr. Hogan, I have one more
19 question on this document and I understand that you
20 may want to go to the Discovery Master. Let me tell
21 you what my question is and I think you'll probably
22 let me ask it, although I don't want to presume.

23 I just want to ask the witness whether or
24 not the examination that is articulated by this
25 document ever took place.

1 STATE OF HAWAII)
2) ss.
3 CITY AND COUNTY OF HONOLULU)

4 I, Julie A. Peterson, Notary Public, State of
5 Hawaii, do hereby certify:

6 That on May 18, 2005, commencing at 8:59 a.m.,
7 appeared before me WAYNE BERRY, the witness whose
8 deposition is contained herein; that prior to being
9 examined he was by me duly sworn; that the deposition
10 was taken in machine shorthand by me and thereafter
11 reduced to typewriting under my supervision; that the
12 foregoing represents, to the best of my ability, a
13 true and correct transcript of the proceedings had in
14 the foregoing matter.

15 That the deponent was notified through counsel,
16 by mail or by telephone, to appear and sign; that if
17 the transcript is filed without signature, deponent
18 has failed to appear and the transcript is therefore
19 kept on file without signature pursuant to Court
20 rules.

21 I further certify that I am not attorney for
22 any of the parties hereto, nor in any way interested
23 in the outcome of the cause named in the caption.

24 Dated at Honolulu, Hawaii, this 23rd day of
25 May, 2005.

My Commission Expires: 9/1/2006

NOTARY PUBLIC, STATE OF HAWAII

